



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/825,337

04/15/2004

Baha T. Tanju

1600-09700

8644

45933

7590

10/24/2008

CONLEY ROSE, P.C.
600 TRAVIS
SUITE 7100
HOUSTON, TX 77002

EXAMINER

MAHMOUDZADEH, NIMA

ART UNIT

PAPER NUMBER

2419

MAIL DATE

DELIVERY MODE

10/24/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/825,337	Applicant(s) TANJU, BAH A T.	
	Examiner NIMA MAHMOUDZADEH	Art Unit 2419	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 September 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: 7,15-17 and 27.
- Claim(s) objected to: _____.
- Claim(s) rejected: 1-6,8-14,18-21,24-26 and 28.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Chirag G Shah/
 Supervisory Patent Examiner, Art Unit 2419

Continuation of 3. NOTE: Applicant amends claim 1 to include "generating a second data stream, the first and second master devices being independent", which changes the scope of the claim and requires further consideration/search. On page 10 of the Applicant's response, Applicant argued that the reference on the record does not teach Applicant's claimed first and second master devices as in claim 10. The Examiner respectfully disagrees. On Figs. 1, 3 and 4 and also, column 3, lines 45-64 disclose the ports of each master device with along with the signalling related to each port. Also, Fig. 4 is duplicate of Fig. 3. On pages 10 and 12 of the Applicant's response, Applicant argued that the reference on the record does not teach "a determination of whether the first and second data streams are valid or invalid" of claim 10 and 20. The Examiner respectfully disagrees. As disclosed on column 3, lines 15-33, being valid or invalid can be interpreted as having priority or not having priority. By having priority the control is transferred to the one communication with priority rather than the one without priority. Applicant amends claim 18 to include "estimates" which changes the scope of the claim which changes the scope of the claim and requires further consideration/search. On page 11 of the Applicant's response, Applicant argued that the reference on the record does not teach that an active master device can request a switch as in claim 24. The Examiner respectfully disagrees. On column 3, lines 16-33 disclose the two master devices that based on the nature of the signal received, interruption is applied to either one of them to transmit the signals to and from the ATM device which is the slave device. Amendment and further argument submitted after close of the prosecution do not render the application allowable condition. On page 11 of the Applicant's response, Applicant argued that Girard does not teach "master devices being remote from each other" of claim 3. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., master devices being remote from each other) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). On page 11 of the Applicant's response, Applicant argued that Girard does not teach "the validity of the data streams" of claim 5. The Examiner respectfully disagrees. As disclosed on column 3, lines 16-33, examiner interpretation of validation is to distinguish between a non-priority and priority signal. As soon as priority interruption is sensed, the non-priority data is not going to be valid any more. On page 11 of the Applicant's response, Applicant argued that Girard does not teach "combine the manual mode with data content or lack of data from the slave device" of claim 6. The Examiner respectfully disagrees. As disclosed on column 3, lines 7-26 and column 8, lines 16-30, one of the modes defined on the multi-mode switch 10 is the manual mode that element 30 is set manually to either one of the master controller 20 or 22. On pages 11 and 12 of the Applicant's response, Applicant argued that Girard does not teach "data stream validity and much less cycling between forwarding different data streams" of claim 19. The Examiner respectfully disagrees. As disclosed on column 3, lines 21-33, examiner interpretation of validation is to distinguish between a non-priority and priority signal. As soon as priority interruption is sensed, the non-priority data is not going to be valid any more. If non-priority is sensed and the priority signal is not present, ATM access to non-priority controller is granted. On page 12 of the Applicant's response, Applicant argued that Girard does not teach "data stream validity" of claim 25. The Examiner respectfully disagrees. As disclosed on column 3, lines 16-33, examiner interpretation of validation is to distinguish between a non-priority and priority signal. As soon as priority interruption is sensed, the non-priority data is not going to be valid any more. On page 12 of the Applicant's response, Applicant argued that Girard does not teach "combine user input with whether data is received from the slave device or not" of claim 26. The Examiner respectfully disagrees. As disclosed on column 1, lines 50-63 which disclose manual control mode for selecting first or second master controller priority in response to a request signal therefrom. On page 12 of the Applicant's response and regarding claim 28, as disclosed on column 3, lines 16-33 disclose a system that both master devices are connected to the switch 10 of Fig. 2 and by utilizing elements 32 and 30 switch 10 can give the right of way to the signal with the priority status. Furthermore, the same response to arguments applies to claims 4, 8-9 and 11-14. .